

Appl. N . 09/863,586  
Amtd. dated June 11, 2003  
Reply to Office Action of March 13, 2003

### **REMARKS and ARGUMENT**

This paper is in response to the first Office Action mailed March 13, 2003 with regard to the above-identified application. This response is being filed within the three-month period set for reply in the Office Action. An Information Disclosure Statement, a Fee form and a check to cover the calculated fee accompany this response. Authorization is provided to charge any additional fee associated with this response, or to credit any over-payment, to Deposit Account No. 50-0573.

Claims 1 – 8 and 10 - 25 are pending in the application. Claims 23 - 25 have been added to the application. No new matter has been added by the amendment.

#### **Rejections Under 35 USC § 103(a)**

The Office Action includes a rejection of claims 1 – 22 under 35 USC § 103(a) based on Whitehead in combination with Borovzky. Whitehead describes a UV sterilization device with an electronic safety mechanism that includes a complex digital lock circuit and a key-actuated lock. To operate the device, a user must first insert and turn a key and then enter a numerical or alphabetical code to turn on the digital lock circuit. (col. 4, lines 10 – 13.) Borovzky shows a contact lens cleaning and disinfecting apparatus. The apparatus includes an upper housing having a UV lamp. The upper housing mates with a lower housing that is filled with fluid. Figure 3 shows that the fluid is filled to a level 24 in the lower chamber. A lens holder is used to immerse a contact lens into the fluid.

To establish a *prima facie* case of obviousness, all of the elements of a claim must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP § 2143.03. As set forth in more detail below, the combination of Whitehead and Borovsky does not show or suggest all of the elements of the pending claims.

Claim 1 of the present application has been amended to make more clear that the claimed UV lamp includes a means for physically obstructing finger access to the safety switch. The claim is clearly distinguishable from the complex lock circuit described in Whitehead. Whitehead includes no description of a means to obstruct finger access to a switch as described in the claim. If one considers that the key-actuated lock is a switch (element 60 of Figure 2 is

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described in the specification as a switch lock), then the switch is physically accessible. There simply is no means to physically obstruct finger access to the switch lock 60. Contrast this construction with the UV lamp recited in claim 1, which requires both a safety switch and a means for physically obstructing finger access thereto.

If, on the other hand, one considers element 110 to be the switch of Whitehead, several of the present claim elements are not met. According to claim 1 of the present application, the switch is on the housing and it has a tool engaging portion for engaging an activation tool. Element 110 is shown schematically in Figure 3 of Whitehead, presumably as an internal component, such as a relay or a transistor. (col. 4, lines 14, 15.) Thus, there is no indication that the switch 110 is formed on the housing or any reason to believe that the switch 110 would have a tool engaging portion.

Since Borovsky also does not show a switch in association with a physically obstructing means, the combination of Whitehead and Borovsky does not show all of the elements of claim 1 and cannot render it or its dependent claims 2 – 6 obvious.

Claim 7 has been amended to recite that the degermination chamber has a wall with a slot for receiving objects to be sterilized. Examples of such slots appear as elements 108 and 116 in Figure 5 of the present application. The slot is very convenient for permitting the introduction of articles, such as a toothbrush, to be sterilized. The lower housing of Borovsky neither shows nor suggests the provision of such a slot. Instead, as shown in Figure 3, Borovsky's lower housing is almost completely filled with fluid. If one were to provide a slot in the lower housing, Borovsky's fluid would flow out of the chamber. Not only would this scenario create a big mess, it would also defeat the purpose of the contact lens cleaning device, in which turbulent waves of the fluid are supposed to dislodge particles from the lens and carry them upwardly to a platform that is exposed to the UV source. (col. 4, lines 23 – 29.) Because Whitehead also does not describe a degermination chamber with a slotted wall, the combination of Whitehead and Borovsky does not show or suggest all of the elements of claim 7 or its dependent claims 8 - 11. Therefore, these claims are also not obvious over the cited combination.

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The cited references fail to show the combination of elements recited in Claim 12 as well. Claim 12 requires a switch on the housing and a means for preventing finger access to the switch. The preventing means is selectively moveable in relation to the switch so that one can not access the switch with one's finger when the preventing means is in a first position, but one can access the switch with one's finger when the preventing means is in a second position. Again assuming that element 60 of Whitehead is a switch, Whitehead shows nothing that is moveable between two positions that would prevent finger access to the switch when in the first position, but allow finger access to the switch when in the second position. Since the combination of Whitehead and Borovsky do not show all of the elements of claim 12, it is not obvious thereover.

The combination also does not show the elements of claim 13, which include a cover that prevents finger access to electrical terminals. The cover has an opening to allow passage of an activation tool which, when passed through the opening, contacts the terminals and completes an electrical circuit. Neither of the cited references shows or suggests these features. If Whitehead includes an activation tool, it would be the key 65. A key may in fact be electrically conductive. However, it would not be apparent to use Whitehead's key to contact terminals that are otherwise protected from finger access by a cover. Such an application would defeat the purpose of having a key! Instead, a key generally includes a uniquely shaped surface adapted to turn a corresponding set of tumblers. The purpose of a key is to prevent activation by anything other than the key itself. If Whitehead's key simply connected electrical terminals, it could easily be replaced by any conductive material of the appropriate thickness, perhaps a paper clip or bobby pin. If that were the case, the key's purpose of preventing use by unskilled operators, as contemplated by Whitehead (col. 2, lines 43 – 46), would be frustrated. Clearly, the key of Whitehead does not contact terminals to complete an electrical circuit. As Borovsky also does not show the features of the claim, the combination of Whitehead and Borovsky does not render claim 13 or its dependent claims 14 and 15 obvious.

Claim 16 recites a UV lamp having a switch. The similarities between the structures recited in the claim and that shown in the combination of Whitehead and Borovsky for the most

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part end there. Claim 16 also requires a plate having a portion that engages the switch and a tool engaging portion shaped to receive an activation tool. Further, the claim calls for a switch cover that covers the switch and plate and includes an opening to allow passage of the activation tool. Neither Whitehead nor Borovsky show any structure resembling the recited features. Thus, the cited combination does not render obvious claim 16 or its dependent claims 17 and 18.

Claim 19 has been amended to recite that the blocking means includes an opening with a filter. The filter is adapted to block the transmission of UV light while allowing the passage of visible light. Neither of the cited references describe or suggest such a blocking means. It is inferred that the Examiner considers the retractable hood 120 of Whithead to be a blocking means. The retractable hood is clearly a solid unit, with no openings, let alone an opening having a filter as recited in the claim. Borovsky also includes no such filter. A purpose of the filter in the present invention is to allow a user to visually inspect whether the UV light is turned on without being exposed to UV. Borovsky utilizes an indicator light (Figure 1, element 3; col. 3, line 34.) for this purpose and clearly does not suggest the use of a filter. Thus, claim 19 and its dependent claims 20 – 22 are also patentable over the cited combination.

#### *New Claims*

New claims 23 - 25 have been added to the application. The claims include subject matter similar to that of original claims 6 and 11, and should not necessitate a new search by the Examiner. Support for the new claims can be found, for example, in the originally filed claims and in paragraphs 0029 and 0024. The new claims add no new matter to the application.

The new claims recite that the degermination chamber of the UV lamp comprises UV absorbing translucent material. This material blocks harmful UV light from escaping the degermination chamber while allowing a user to visually check the sterilization process. Neither Whitehead nor Borovsky describe or suggest such a feature. Thus, the new claims are also believed to be patentable over the combination.

#### **Conclusion**

It is believed that the pending claims are patentable over the cited prior art. Therefore, it is respectfully requested that the present rejections be reconsidered and withdrawn. If direct

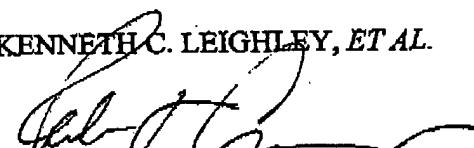
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communication will expedite the allowance of the application, the Examiner is invited to telephone the undersigned attorney for applicants.

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